

REMARKS

This responds to the Office Action dated December 7, 2004.

Claims 27–29 and 35 are amended. No claims are cancelled or added. As a result, claims 1–38 remain pending in this patent application.

Objection to the Claim(s)

Claim 35 was objected to due to an informality. Applicant has amended claim 35 to overcome this objection. Accordingly, Applicant respectfully requests allowance of claim 35.

§103 Rejection of the Claims

Claims 19–38 were rejected under 35 U.S.C. § 103(a) for obviousness over Thompson et al. (U.S. Patent No. 4,556,063) in view of Stein (U.S. Patent No. 4,266,551). Applicant respectfully traverses.

Concerning claims 19 – 26:

As an initial note, these claims pertain to communicating between an implantable medical device and a first external remote transceiver, such communication using a second (intermediary) external transceiver. One example of this is illustrated in FIG. 1 of the present patent application. In FIG. 1 of the present patent application, the implantable device 105 wirelessly communicates with a nearby external telemetry interface device 110, which in turn wirelessly communicates with a remote user interface device 115. Applicant cannot find in Thompson et al. and/or Stein any disclosure, teaching, or suggestion of communicating between an implantable medical device and an external remote transceiver by using another (intermediary) external transceiver. Similarly, Applicant cannot find in Thompson et al. and/or Stein any disclosure, teaching or suggestion of “externally buffering,” as recited or incorporated in these claims. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

Concerning claims 27 – 30:

Claims 27 – 29 have been amended to overcome this rejection. Applicant cannot find in Thompson et al. and/or Stein any disclosure, teaching, or suggestion of externally extracting

information from electrogram data, then externally transceiving a signal that includes information based on this externally extracted information, as recited or incorporated in these claims. Similarly, Applicant cannot find in these cited references any disclosure, teaching, or suggestion of “externally buffering” or “externally processing,” as further recited in claims 28 and 29, respectively. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

Concerning claims 31 – 34:

Applicant cannot find any disclosure, teaching, or suggestion in Thompson et al. and/or Stein of using an intermediary external transceiver, and externally processing a first communication signal (e.g., from the implantable device) to obtain a second communication signal that is communicated between the intermediary device and the remote transceiver, as recited or incorporated in these claims. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

Concerning claims 35 – 38:

Applicant cannot find any disclosure, teaching, or suggestion in Thompson et al. and/or Stein of an external transceiver that serves as an intermediary between an implantable medical device and a remote external device, as presently recited or incorporated in these claims. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

Finality of the Rejection

It is unclear to the Applicant whether the present Office Action, mailed on December 7, 2004, was intended to be a Final Office Action. Although Office Action Summary sheet indicated that the rejection was final, no language appears in the Office Action itself declaring the Office Action to be a final rejection. Applicant believes that the finality indicated in the Office Action Summary sheet is likely an error, since there is another apparent error in the Office Action Summary sheet indicating claims 1-34 as being allowed, when the body of the Office Action itself asserted an apparent rejection of claims 19 – 38. Clarification is requested.

Moreover, Applicant respectfully submits that a final rejection is inappropriate under the present circumstances, because the present new § 103 rejection of claims 19 – 38 is clearly not in

response to any claim amendments by the Applicants in Applicant's previous response of November 11, 2004, nor is it in response to any references submitted by the Applicants in an Information Disclosure Statement provided with such previous response of November 11, 2004. *See* MPEP § 706.07(a). Indeed, the only claim amendments made in Applicant's previous response of November 11, 2004 were to correct very minor informalities in claims 36 – 38, which would not have changed the scope of the subject matter before the Examiner. Moreover, Applicant did not submit any Information Disclosure with Applicant's previous response of November 11, 2004. Accordingly, Applicant respectfully submits that a final rejection would be inappropriate under the present circumstances.

In sum, Applicant respectfully requests clarification and/or withdrawal of the finality of the present rejection in the Office Action mailed December 7, 2004.

Allowable Subject Matter

Applicant gratefully acknowledges the allowance of claims 1-18.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

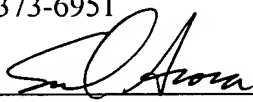
Respectfully submitted,

JEFFREY A. VON ARX ET AL.

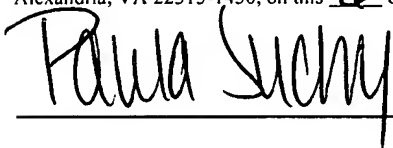
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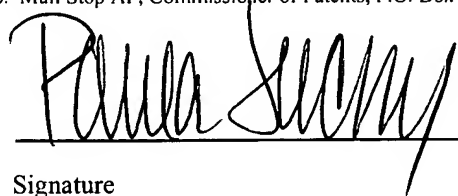
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Date January 5, 2005

By 
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16 day of January, 2005.


Name


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